

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID RAYMOND SMITH,

Defendant.

CR 21-1-M-DLC

ORDER

Before the Court is the United States’ Unopposed Motion for Preliminary Order of Distribution. (Doc. 95.) The motion requests a preliminary order of distribution for the proceeds from the sale of Defendant’s “Real Property” at 975 Someesch in Hamilton, Montana, pursuant to this Court’s Order and Writ (Docs. 80, 81). The motion is not opposed by Defendant David R. Smith, Christine M. Smith, or TrailWest Bank, who each hold a right or interest in the Real Property which will attach to the proceeds of sale to be deposited with the Clerk of Court. (Doc. 95 at 4.) This Court’s Order (Doc. 80) provided the United States Attorney’s Office for the District of Montana (“USAO”) with the sole power and authority to sell the Real Property and transfer ownership. Pursuant to that authority, the USAO has entered into contract to sell the Real Property and requests this preliminary order to effectuate the closing of the sale by the title company, Flying

S Title & Escrow of Montana, Inc., or any subsequent title company (“Title Company”). (Doc. 95 at 1–4.)

Accordingly, IT IS ORDERED that:

1. Subject to USAO approval of the closing settlement statement, Title Company shall pay and distribute the following from the proceeds of sale:
 - a. All title and closing fees;
 - b. All outstanding 2022 real property taxes of approximately \$2,051.07 to Ravalli County;
 - c. 2023 real property taxes of approximately \$4,103.00, pro-rated between buyer and seller;
 - d. 6% realtor’s commission to Dawn Maddux of Engel & Volkers Western Frontier;
 - e. Full payment of all First Interstate Bank liens in the amounts provided by First Interstate Bank; and
 - f. Payment of the Internal Revenue Service tax lien of approximately \$21,598.75.

(Items a.-f. collectively called “Closing Distributions.”)
2. After payment of the Closing Distributions, Title Company shall pay all remaining proceeds (“Net Sales Proceeds”) to the Clerk of Court, subject to the USAO filing a motion and order directing the deposit of the Net Sales Proceeds into the Court Registry pursuant to D. Mont. L.R. 67.1.

The Net Sales Proceeds shall be deposited with the Clerk of Court subject to all unpaid claims identified below.

3. Upon payment of the Closing Distributions and deposit of the Net Sales Proceeds with the Clerk of Court, title to the Real Property shall be transferred to the buyers free and clear of the following liens and interests as shown on Exhibit A to the Unopposed Motion (Doc. 95-1), each of which attaches to the Net Sales Proceeds: ¶¶ 25, 26, 28, 29, 34, 35, 36, 37, and 38, or as may be subsequently renumbered or replaced.
4. The USAO will transfer full title, free and clear of the exceptions identified above, to the buyers via Marshal's Deed.
5. The USAO will file a settlement statement identifying the exact figures paid at closing with its motion for final order of distribution.

DATED this 14th day of March, 2023.



Dana L. Christensen, District Judge
United States District Court